

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RANDY L. MORGAN T/A/D/B/A)
CONCEPTS RESIDENTIAL)
DESIGN COMPANY)
Plaintiff,)
v.) **Civil Action No. 07-803**
HANNA HOLDINGS, INC., et al.)
Defendants.)

MEMORANDUM OPINION & ORDER

Presently before the court are Defendants' Motion in Limine as to Damages Claimed by Plaintiff (Doc. 174), their brief in support thereof (Doc. 175), Plaintiff's Brief in Opposition of Defendants' Motion in Limine as to All Damages (Doc. 183), and Defendants' reply thereto (Doc. 184). For the reasons stated, we will GRANT Defendants' motion in part and DENY Defendant's Motion in part.

Counts I-VI and VIII-XIII in which Plaintiff Morgan ("Morgan") alleged direct infringement were dismissed in their entirety as against Hanna Holdings, Inc. ("Holdings"), Hawthorne Homes Company, Inc. ("Hawthorne"), and Howard Hanna Real Estate Services, Inc. ("HHRES"). (Doc. 109). Count VII in which Morgan alleged direct infringement was dismissed as against Holdings and Hawthorne. (Doc. 162). With regard to Bayard Crossings, Inc., HHRES, Howard Hanna Mortgage Services, Inc., and Barristers Land Abstract Company, Inc. (collectively, the "Hanna Subsidiaries"), Counts I-VI and VIII-XIII were dismissed to the extent those counts alleged contributory or vicarious infringement based upon direct infringement by Holdings, Hawthorne, and HHRES. (Doc. 109).

As a result of these rulings, Morgan may not advance any claim alleging contributory or vicarious infringement based upon direct infringement by Holdings and Hawthorne. Morgan may advance a claim alleging direct infringement by HHRES, as set forth in Count VII of Morgan's Second Amended Complaint. (Doc. 49). Morgan may also advance a claim alleging contributory or vicarious infringement by the Hanna Subsidiaries based on direct infringement by HHRES, as set forth in Count VII of Morgan's Second Amended Complaint. (Doc. 49). In addition, Morgan may advance a claim alleging contributory or vicarious infringement by the Hanna Subsidiaries based on direct infringement by Palm Properties, L.P. ("Palm") and Pitell Contracting, Inc. ("Pitell"). Morgan is permitted to present to the jury evidence which would enable a reasonable fact finder to conclude that the contributory or vicarious infringement by the Hanna Subsidiaries occurred as a result of the alleged direct infringement by Palm, Pitell, and HHRES.

AND NOW, to-wit, this 8th day of June, 2011, it is hereby ORDERED, ADJUDGED, and DECREED THAT:

- 1). Defendant's Motion in Limine as to Damages Claimed by Plaintiff (Doc. 174) is granted in part. Morgan is limited to proving the following claims at trial:
 - a. That HHRES directly infringed on Morgan's drawings as alleged in Count VII of Morgan's Second Amended Complaint.
 - b. That the Hanna Subsidiaries engaged in contributory and/or vicarious infringement of Morgan's drawings based upon direct infringement by Palm, Pitell, and HHRES.
- 2). In all other respects, Defendant's Motion is denied.

Date: 6/8/11

D. Michael Fisher

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United States Circuit Judge